IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1228 OF 2004

KSL & INDUSTRIES LTD.,]
(formerly known as Krishna Texport]
Industries Ltd.), a Company duly]
incorporated under the Companies Act,]
1956 having its Head Office at]
11/12, Raghuvanshi Mills Compound,]
Senapati Bapat Marg, Lower Parel,]
Mumbai 400 013 and also having its]
office at Kamat Industrial Estate,]
396, V.S. Marg, Prabhadevi, Mumbai-25] .....Petitioner
(Orig. Complainant)

VERSUS

1. Mannalal Khandelwal,]
1 & 2, "Abhishek", Irla Bridge,]
S.V. Road, Andheri (W),]
Bombay 400 058]

2. The State of Maharashtra]
through the Office of the Government]
Pleader, High Court, Mumbai] .....Respondents

AND

Mr. Vijay Agarwal,]
President, Bounced Cheque Victims']
Grievance Forum, Bombay] ....Intervenor

Mr. Kiran Kulkarni with Mr. Mudit Sharma and

Mr. Kamaldeep Sagar instructed by M/s. Paras Kuhad &

Associates for the Petitioner

Mr. S.V. Marwadi for Respondent No. 1

Mr. V.A. Thorat, Advocate-General, with Mrs. U.V. Kejariwal,

Additional Public Prosecutor, for the State

Mr. V.R. Kingaonkar, Registrar, Legal,High Court,

Appellate Side, present

WITH

A.S. P.I.L. No. 151 of 2004

Kashi B. Das,]
Age 40 years, Occ. Business, Residing]
at 117-Ravikiran, next to Monginis,]
Off New Link Road, Andheri (West),]
Mumbai 400 053] ....Petitioner

VERSUS

1. Union of India,]
   through the Ministry of Law & Justice]
   At New Delhi]
   The State of Maharashtra,]
   through the Secretary, Law and]
   Judiciary Department, Mantralaya,]
   Mumbai 400 032]
2. The Registrar, High Court, Mumbai] ....Respondents

AND

Ms. Sona Pardasani,]
Advocate, H.S. Cox & Co. (P) Ltd.,]
52, Dr. V.B. Gandhi Marg, 1st Floor,]
Kalaghoda, Fort, Mumbai 400 023] ....Intervenor

Mr. Uday Warunjikar for the Petitioner

Mr. S.S. Dubey for Respondent No.1

Mr. V.A. Thorat, Advocate-General, with Mrs. U.V. Kejariwal

for the State

Mr. V.R. Kingaonkar, Registrar, Legal, High Court,

Appellate Side, present

WITH

A.S. *SUO MOTU* P.I.L. No. 157 of 2004

Suo Motu by Business Chronicle,]
Deccan Chronicle, Hyderabad] ....Petitioner

VERSUS

1. Vijay Agarwal,]
   President, Cheque Victims']
   Grievances Forum, Bombay]

2. The State of Maharashtra]

3. The Chief Metropolitan Magistrate,]
   Bombay]
3. The Registrar General, High Court,]
   Bombay] .....Respondents

AND

Mr. Hariram Chaudhari,]
Chairman, Forum for]
Middle Income Group, 2, Sriji Kripa,]
6th Road, Prabhat Colony,]
Santacruz (East), Mumbai 400 055.] ....Intervenor

Mr. V.A. Thorat, Advocate-General, with Mrs. U.V. Kejariwal

for the State

Mr. V.R. Kingaonkar, Registrar, Legal,High Court,

Appellate Side, present

WITH

INTERVENTION APPLICATIONS

CORAM: DALVEER BHANDARI, C.J., &
DR. D.Y. CHANDRACHUD, J.

DATE OF RESERVING
THE JUDGMENT: 22ND DECEMBER, 2004

DATE OF PRONOUNCING: 1ST FEBRUARY, 2005.

JUDGMENT (Per Dalveer Bhandari, C.J.):-

1. All these petitions emanate from the proceedings under Section 138 of the Negotiable Instruments Act, 1881 (for short, "the Act"). Therefore, we propose to decide these petitions by a common judgment.

2. These petitions raise following two issues, which are required to be determined:-

   (i) Whether the complaint under Section 138 of the Act, according to the legislative mandate, requires to be adjudicated expeditiously and in any event, within six months from the date of the service of summons or warrants on the accused?

   (ii) Whether, in spite of mandate of Section 145(1) of the Act, the Court is obliged to

examine the complainant even in respect of matters which have been stated on affidavit?

3. Now, we would deal with basic facts and issues involved in individual petitions.

Criminal Writ Petition No. 1228 of 2004:

4. The petitioner-Company approached this Court against the order of the learned Sessions Judge delivered in Criminal Revision Application No. 713 of 2003 on 28th November, 2003 in proceedings emanated from Section 138 of the Act. The learned Metropolitan Magistrate, Mumbai, by his order dated 1st August, 2003, arrived at the conclusion that the amendment, more particularly in Section 145 of the Act, has been introduced by the Legislature with an intent to accelerate disposal of the cases. Sub-section (1) has provided right and liberty to the Company to file its evidence (examination-in-chief) by way of an affidavit. The Court directed the matter to be placed for the cross-examination of

the witness after examination-in-chief was tendered by filing affidavit.

5. Aggrieved by the order, accused-respondent, Mannalal Khandelwal, filed a Criminal Revision Application, No. 713 of 2003, before the learned Sessions Judge, Greater Mumbai, at Mumbai. The learned Additional Sessions Judge, by order dated 28th November, 2003, set aside the order dated 1st August, 2003 passed by the Metropolitan Magistrate and consequently, the application filed by the respondent for recording of examination-in-chief in Court of the complainant's witness Dhananjay Varma was allowed. This petition is directed against the said order passed by the Additional Sessions Judge on 28th November, 2003.

6. The learned Single Judge of this Court in the impugned order raised a question whether in spite of mandate of Section 145(1) of the Act (which has been inserted by amending Act No. 55 of 2002 with effect from 6th February, 2003), the

Court is obliged to examine the complainant even in respect of matters which have been stated on affidavit, which is to be treated as examination-in-chief of the witness. The learned Single judge has also referred to the observations of the Supreme Court in *Ameer Trading Corporation Ltd. v. Shapoorji Processing Ltd.,* (2004) 1 SCC 702, and order dated 2nd September, 2004 of this Court passed in Criminal Writ Petition No. 26 of 2004 in *Raminder Singh Sahani v. Japfa Oberoi Agro Ltd. & Anr.* The observation made in this case was that the law, as understood by another Single Judge of this Court, is that in view of the expansive provision contained in Section 145(2) of the Act, in spite of filing of affidavit, the complainant is obliged to enter the witness-box to depose in the same matter. According to the learned Single Judge, this aspect needs to be authoritatively decided by the Court, and reference was made by him to the Division Bench of this Court. We propose to dispose of this Writ Petition, along with the other two petitions mentioned above, by a common judgment.

7. The question involved in PIL Nos. 151 and 157 of 2004 is broadly the same, therefore, we would like to decide these petitions by this common judgment.

8. PIL No. 151 of 2004 relates to cases pertaining to Section 138 of the Act. In this case, a criminal complaint was filed under Section 138 of the Act against the accused, who issued a cheque for Rs.3,15,300/- for discharge of legal liability on 14th July, 2003. The said cheque was dishonoured with the remark: "Refer to drawer". The demand notice was sent, but the accused refused to pay the outstanding amount. In these circumstances, the petitioner was compelled to file a criminal complaint under Section 138 of the Act.

9. The petitioner's complaint was verified on 20th September, 2003 and the process was issued by the Metropolitan Magistrate returnable after six months on 20th March, 2004. The petitioner has filed an application for preponing the date, which was rejected after hearing the parties. The petitioner

in this petition has made serious grievance of undue delay which occurs in disposal of complaints under Section 138 of the Act by the Metropolitan Magistrates. According to the petitioner, normally, there are only one or two hearings of these cases in the entire year and consequently, there is enormous delay in disposal of these cases.

10. In another petition (*Suo Motu* PIL No. 157 of 2004) also, unduly long delay in disposal of these complaints has been highlighted. In the daily national newspaper *Deccan Chronicle* dated 16th September, 2004, it was published that 2,50,000 cheque-bouncing cases, involving Rs.7,000 crores to Rs.8,000 crores, are pending in the 47 Magistrates' Courts in Mumbai.

11. Pursuant to the notice issued by this Court, the Registrar, Legal, of this Court, filed an affidavit, according to which, as on 1st April, 2004, 93,631 complaints under Section 138 of

the Act were pending in Metropolitan Magistrates' Courts, Mumbai.

12. It is also submitted in the said affidavit that 20 additional posts of Metropolitan Magistrates, on permanent basis, are required to be created in order to cope with the current pendency of cases under the Act.

13. It was also argued by the petitioner that such complaints ordinarily take five to seven years before they are disposed of by Metropolitan Magistrates. According to the petitioner, the entire legislative purpose and object of incorporating these provisions stand defeated because of enormous delay in disposal of these complaints.

14. Sections 138 to 142 of the Act in Chapter XVII were inserted in the Act by the Banking, Public Financial Institutions and Negotiable Instruments Law (Amendment) Act, 1988. We deem it appropriate to reproduce Section 138 of the Act.

15.Section 138 of the Act reads as under:-

> "**Dishonour of cheque for insufficiency, etc., of funds in the account**—Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing, to the credit of that amount is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for a term which may extend to one

year, or with fine which may extend to twice the amount of the cheque, or with both:

Provided that nothing contained in this section shall apply unless—

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, within fifteen days of the receipt of information by him from the bank

regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation.—For the purposes of this section, "debt or other liability" means a legally enforceable debt or other liability."

16. Section 140 deals with defence which may not be allowed in any prosecution under Section 138. Section 141 deals with offences by companies. Sections 142 deals with cognizance of offences. Sections 138 to 142 have been incorporated in the Act as a result of strong public opinion for inculcating

faith in the efficacy of banking operations and credibility in transacting business on the basis of negotiable instruments. Introducing these provisions became even more important, because our economy has now been liberalised and is becoming global.

17. Section 138, in fact, has been introduced to prevent dishonesty on the part of the drawer of negotiable instrument to draw a cheque without sufficient funds in the account maintained by him in a bank and induce the payee or holder-in-due-course to act upon it. In other words, these provisions have been introduced to give greater credibility to our trade, business, commerce and industry, which is absolutely imperative in view of the growing international trade and business. The constitutional validity of these provisions has been upheld by the Supreme Court.

18. These provisions have been inserted in the Act recently; but even then as on 31st December, 2004, the total number of

complaints under Section 138 of the Act were about one lakh. The number of complaints which are pending in Bombay Courts seriously cast shadow on the credibility of our trade, commerce and business. Perhaps, the framers of this legislation could have never imagined that dishonesty of this magnitude is prevalent in our commercial world. Huge filing of these complaints also reflects sudden decline in our moral standard and our value system. Immediate steps have to be taken by all concerned to ensure restoration of the credibility of trade, commerce and business. There are multiple reasons for accumulation of these complaints.

19. The petitioners are justified in their assertion that the newly-added provisions of the Act in question would be rendered nugatory if complaints filed under Section 138 of the Act are not disposed of expeditiously. The judicial system itself cannot acquire efficacy, credibility or respectability if a complaint of this nature takes five to seven years before it is finally adjudicated by the Metropolitan Magistrate.

20. It has become imperative for us to take all necessary steps to ensure that these complaints are disposed of expeditiously and unscrupulous people do not take undue advantage of the pendency of these complaints before the Courts.

21. Before we suggest necessary steps to be taken or give directions, it is necessary to comprehend the stages in which undue delay takes place and thereafter give suggestions by which delay in disposal of these complaints can be curtailed. Following are the usual stages of the complaint:-

(i) Filing of complaint under Section 138 of the Act with Metropolitan Magistrate (MM) / Additional Metropolitan Magistrate (AMM);

(ii) The Metropolitan Magistrate (in-charge) verifies the complaint and marks the same to

the concerned MM or AMM for further proceeding;

(iii) Stage of issuance or declining to issue the process;

(iv) Recording of the statement of the Complainant and other witnesses and their cross-examination;

(v) Fixing the date for hearing of arguments of the Counsel for the Complainant and accused;

(vi) Orders for summoning of the accused;

(vii) Appearance of the accused and other necessary formalities regarding release of the accused on bail be completed;

(viii) Hearing of application, if moved, for recalling the summoning order and passing order;

(ix) Asking the accused regarding his guilt or otherwise by a notice under Section 251 of the Criminal Procedure Code;

(x) On his pleading not guilty, to again examine the complainant and witnesses, to permit their cross-examination and recording the statement of accused under Section 281 of the Criminal Procedure Code and to ask him to lead his defence evidence;

(xi) Pronouncing the judgment and order.

22. It is a matter of common experience that enormous time is spent in service of summons on the accused for a variety of reasons and the most important reason is the accused's tendency of avoiding service. The Court must adopt all pragmatic methods of services on the accused. Repeated summons be sent by employing all methods, including E-mail, to ensure service of summons. The concerned Court should not give long dates, primarily to prevent misuse and abuse of the system by the accused. It is

always desirable to have process service agency attached to the District and Sessions Court and the High Court to ensure effective control on the process serving agency.

23. It is also a matter of common knowledge and experience that considerable time of the Court is also spent in recording the statement of the complainant. The question, therefore, arises whether the Court can dispense with his / her appearance and instead, take affidavit of the complainant and treat the same as examination-in-chief.

24. In the commercial world, the efficacy of cheques as an instrument of commercial transaction is paramount. It has been indicated in the preceding paragraphs that in Mumbai City alone, about one lakh complaints under Section 138 of the Act are pending. In the States of Maharashtra and Goa 2,79,089 complaints are pending as on 31st December, 2004.

25. Details of complaints pending in Maharashtra and Goa under Section 138 of the Act as on 31st December, 2004 are as follows:-

Sr. No.	District	Pendency
1	Ahmednagar	17041
2	Akola	7627
3	Amravati	4971
4	Aurangabad	11792
5	Bhandara	743
6	Beed	2323
7	Buldhana	2527
8	Chandrapur	1309
9	Gadchiroli	65
10	Dhule	6825
11	Jalgaon	8480
12	Raigad-Alibag	1904
13	Kolhapur	9974
14	Nagpur	31228
15	Nanded	926
16	Nashik	21501
17	Osmanabad	2377
18	Parbhani	3485
19	Pune	86557
20	Ratnagiri	767
21	Satara	8977

Sr. No.	District	Pendency
22	Sangli	7043
23	Solapur	10058
24	Thane	16717
25	Wardha	979
26	Yavatmal	1660
27	Jalna	2680
28	Latur	3754
29	Sindhudurg	321
30	Panaji, North Goa	3237
31	Margao, South Goa	**1241**
	Total	**279089**

26. In Bombay Courts, as on 31st December, 2004, total number of pending cases emanating from Section 138 of the Act are 98,593. Total number of complaints which are now pending are about 4 lakhs in the States of Maharashtra and Goa.

27. Pendency of such large number of complaints demonstrates lack of integrity, credibility and honesty in business transactions. This tendency must be effectively

curbed in the larger interest of trade and business. In the age of international trade and globalisation, it is even more important that people must have implicit faith in the credibility and honesty of the system. Unfortunately, sanctity, integrity and credibility of issuance of cheques in commercial transactions have been eroded to a large extent.

28. Undoubtedly, dishonour of a cheque by the bank causes incalculable loss, injury and inconvenience to the payee, and the entire credibility of the business transaction within and outside the country suffers a serious set back. The Parliament, in order to restore the credibility of cheques as a trustworthy substitute for cash payment, specifically incorporated the provisions of Sections 138 to 142 of the Act. An unscrupulous drawer normally takes various pleas to defeat the genuine transaction and claim of the payee.

29. Experience has shown that the criminal prosecution under the provisions of Sections 417 and 420, Indian Penal Code,

have not proved efficacious to bring home the guilt of the drawer-accused. In this background, these new provisions have been enacted. The object and intention of incorporating these provisions were to lend greater acceptability and credibility to the business transactions and to establish that the cheques are a trustworthy substitute for cash payment. The other object and inherent intention of enacting the said provisions is clear, viz., that the Legislature was extremely keen and anxious in ensuring expeditious disposal of cases pertaining to dishonouring of cheques. The said amendments were, in fact, introduced primarily to accomplish the said object.

30. The Courts have to give meaning and translate the legislative intention of the Parliament (a combined will of the people of this country) while interpreting laws. The Courts must adopt suitable and effective procedure to achieve the legislative objects. The Court's procedure also has to be designed to fulfil the object and intention behind

incorporating the aforesaid provisions. In other words, it is the obligation of the Courts to develop or carve out the procedure by which the complaints filed under these provisions are disposed of as expeditiously as possible.

31. While enacting these provisions, the Legislature has been very careful in protecting the honest drawers. Accordingly, dishonour of cheque, *per se,* has not been made an offence. A provision for a demand of notice has been incorporated. The drawer gets fifteen days' statutory notice to make payment of the cheque amount and even then, if he fails to make payment, an offence punishable under Section 138 of the Act is attracted.

32. The provisions of Section 138 of the Act would be attracted only when the cheque has been issued for the discharge of any debt or other legally enforceable liability. The maker of the cheque is not liable for prosecution if the cheque is given by way of a gift, present or donation and is dishonoured.

This view has been taken in a case decided by Andhra Pradesh High Court in *B. Mohan Krishna v. Union of India*, 1995 (II) Crimes 795.

33. It may be pertinent to observe, as mentioned above, that provisions of Section 138 of the Act would be attracted only when the cheque has been issued for the discharge of any debt or other legally enforceable liability. The maker of the cheque is not liable for prosecution if the cheque, which is dishonoured, is the one which is given as a gift, present or donation. This is the consistent legal position crystallised by a large number of cases. The object and the reasons for enactment of these provisions have also been aptly articulated by a decision of Full Bench of Kerala High Court in the case of *S.K.D. Lakshmanan Fireworks & Industries v. K.V. Sivarama Krishnan*, 1995 Cri.L.J. 1384. The Court observed as under:-

"The object and reasons clause of the bill which introduced the Amending Act would show that the new Chapter was incorporated specifically to enhance the acceptability of cheques in settlement of liabilities by making the drawer liable for penalties in case of bouncing of cheques due to insufficiency of funds in the accounts or for the reason that it exceeds the arrangements made by the drawer, with adequate safeguards to prevent harassment of honest drawers. It is obviously to achieve the above objective that provisions have been incorporated in the Chapter creating a new offence in case where a cheque bounces when presented for payment and conferring a new criminal remedy on the affected party, namely, the payee or holder in due course of the

dishonoured cheque in addition to the existing civil remedy."

34. Their Lordships of the Supreme Court in *Electronic Trade and Technology Development Corporation Ltd. v. Indian Technologist and Engineers*, 1996 (2) SCC 739, have observed that the object of bringing Section 138 of the Act on the statute appears to be to inculcate faith in the efficacy of the banking operations and credibility in transacting business on negotiable instruments. The fact that in Bombay Courts, about one lakh complaints are pending as on 31st December, 2004 clearly demonstrates that the credibility and acceptability of issuance of cheques in settlement of liability is seriously in question. To control the flood of these complaints effectively, it is imperative to properly comprehend the legislative intention behind Sections 138 to 142 of the Act strictly and fully implement the legislative intention. In no civilised society, within such a short period, complaints of such large magnitude are filed

and remain pending for years. These complaints also adversely reflect upon the overall honesty, integrity and credibility of our business ethics in the commercial capital of this country.

35. There has been a rapid decline in the value system of general trade and credibility of business. Therefore, it has become imperative to take all permissible steps to curb this tendency. Our attempts must be to ensure that no one should be permitted to take advantage by abusing or misusing the system. The framers of law have made adequate provisions in the Act itself to deal with such persons. Section 138 of the Act lays down that any accused guilty of violating the provisions can be imprisoned for a term which may extend to two years or with fine which may extend to twice the amount of the cheque or with both. The Courts are required to properly comprehend these provisions and apply them strictly so that the honest persons

are not compelled to approach the law Courts by unscrupulous litigants.

36. We refer to another important issue of these cases, which requires to be adjudicated, viz., regarding evidence by way of affidavit. Section 145 of the Act was added by way of amendment in the year 2002 with effect from February, 2003. Section 145 of the Act reads as under:-

> **"Evidence on affidavit–**
>
> (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the evidence of the complainant may be given by him on affidavit and may, subject to all just exceptions, be read in

evidence in any enquiry, trial or other proceeding under the said Code.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any person giving evidence on affidavit as to the facts contained therein."

37. The Statement of Objects and Reasons of the Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002, as crystallised, is as under:-

The said provisions in the Negotiable Instruments Act, 1881, viz., Sections 138 to 142 in Chapter XVII, have been found deficient in dealing with dishonour of cheques. Not only the punishment provided in the Act has proved to be inadequate, the procedure prescribed for the Courts to deal with such matters has

been found to be cumbersome. The Courts are unable to dispose of such cases expeditiously in a time-bound manner, in view of the procedure contained in the Act. The proposed amendments in the Act are made for early disposal of cases relating to dishonour of cheques, enhancing punishment for offenders, introducing electronic image of a truncated cheque and a cheque in the electronic form as well as exempting an official nominee director from prosecution under the Act.

38. Sub-section (1) of Section 145 gives complete freedom to the complainant either to give his evidence by way of affidavit or by way of oral evidence. If this is made on affidavit, the same has to be accepted and such affidavit is required to be kept on record by the Court. The second part of sub-section (1) provides that the complainant may give his evidence on affidavit and may, subject to all just exceptions, be read in evidence in any enquiry, trial or other proceeding. Thus, it is clear that once the evidence of the complainant is

given on affidavit, it may be read in evidence in any enquiry, trial or other proceeding, and it may be subject to all just exceptions.

39. We are clearly of the opinion that according to the language of Section 145 of the Act, the evidence (examination-in-chief) of the complainant can be given on affidavit, and thereafter, if the accused so desires, he / she may request the Court to call the complainant for cross-examination.

40. Immediately after the presence of the accused is secured, an option be given to him whether, at that stage, he would be willing to pay the amount due, along with reasonable interest, and the Court may consider passing suitable order. But where the accused is not willing to pay the principal amount with interest even at that stage, the Court may fix up the case at an early date, and ensure day-to-day trial of the case. In order to accomplish the underlying object of the Act, we deem it appropriate to pass the following directions:-

(a) Experience reveals that enormous time is spent at the stage of summoning / serving the accused. The Court must adopt pragmatic methods and must serve them by all possible means of service, including E-mail. The Court would be justified, in appropriate cases, to take the help of concerned police station for the service on the accused. The Court should avoid giving long dates. Instead, the Court must repeatedly issue summons to secure the presence of the accused. The Court must ensure that the accused are not permitted to abuse the system.

(b) The Court concerned must ensure that examination-in-chief, cross-examination and re-examination of the complainant must be concluded within three months of assigning the case. The Court has option of accepting affidavits of the witnesses, instead of examining them in Court. Witnesses to the complaint and accused must

be available for cross-examination as and when there is direction to this effect by the Court.

(c) Complaints must be disposed of as expeditiously as possible, and in any event, within six months from the date when the presence of the accused has been secured. In case the concerned judicial officer is not able to dispose of the complaint within six months, then, the concerned judicial officer must submit a report to the concerned Sessions Judge, indicating the reasons which led to delay in disposal of the complaint. The report submitted by the concerned judicial officer shall be taken into consideration while evaluating the performance of the concerned judicial officer.

(d) Every judicial officer must ensure that at least four cases in a month are disposed of by reasoned judgments.

(e) The trial of these complaint-cases under Section 138 of the Act be continued from day-to-day until its conclusion.

(f) The complainant must ensure that the legislative intention is carried out in dealing with complaints under Section 138 of the Act.

(g) The Registrar-General is directed to monitor that directions given by the Court are scrupulously followed. A comprehensive quarterly report be submitted to this Court indicating whether directions of this Court are followed.

41. All these petitions are accordingly disposed of. Rule is partly made absolute in Criminal Writ Petition No. 1228 of 2004. All intervention applications stand disposed of.

42. These petitions would, however, be listed on 1st March, 2005 only to ensure compliance of our judgment, as mentioned below.

43. We would like to place on record that presently, there are 727 posts of Civil Judges, Junior Division, in the State of Maharashtra. The entire process of filling these vacancies is complete, as far as this Court is concerned. The Civil

Judges, Junior Division, and Metropolitan Magistrates are already over-worked; and giving them additional burden may not yield any fruitful and desirable results. About 4 lakh complaints under Section 138 of the Act are pending in various Courts. According to the legislative intention, these complaints must be disposed of expeditiously. The only way to achieve this object is to have larger number of judicial officers. Therefore, in the larger interest of justice, it has become absolutely imperative to create at least 100 additional posts of Judicial Officers in the Cadre of Civil Judges, Junior Division, in the State of Maharashtra.

44. We direct the Chief Secretary of the State of Maharashtra to ensure that 100 additional posts of Civil Judges, Junior Division, and their supporting staff are created forthwith, and in any event, within two months from today.

45. Even after receiving sanction from the State, to complete the entire process, at least time of few months would be required.

Therefore, looking to the urgency of these matters, we direct the Registrar-General to appoint following judicial officers in various cities of Maharashtra to deal with cases under Section 138 of the Act exclusively:-

Sr.No.	***District***	***No. of officers***
1	Mumbai	15
2	Pune	12
3	Nagpur	4
4	Ahmednagar	2
5	Aurangabad	1
6	Nashik	2
7	Kolhapur	1
8	Solapur	1
9	Thane	2
10	Satara	1
11	Jalgaon	1
	Total	**42**

46. The Registrar-General is directed to post the officers as enumerated in preceding paragraph within two weeks.

47. We direct that the copies of this judgment be sent to the Chief Secretary and the Law Secretary of the State of Maharashtra within three days for immediate compliance.

48. These petitions are disposed of. These petitions would be listed on 1st March, 2005 for limited purpose of ensuring the compliance of our judgment.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD,J.